



ENTERED
12/07/2017

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

IN RE:	§	Case No. 17-33832
	§	
FRETZ CONSTRUCTION COMPANY,	§	
	§	Chapter 7 Case
DEBTOR.	§	
	§	

**ORDER REGARDING EMERGENCY MOTION (A) TO COMPEL COMPLIANCE
WITH LEASE PURSUANT TO SECTION 365 OF THE BANKRUPTCY CODE; (B) TO
GRANT ADMINISTRATIVE CLAIMS TO LANDLORD; AND (C) FOR RELATED**

RELIEF

(61)

Came on for Consideration the emergency motion (a) to compel the chapter 7 trustee, Rodney D. Tow (the “**Trustee**”), to comply with the lease obligations of Fretz Construction Company (“**Fretz**”), pursuant to section 365 of the Bankruptcy Code; (b) to grant Aquinas an administrative claim for unsatisfied lease obligations; and (c) for related relief (the “**Emergency Motion**”), filed by Aquinas Companies, LLC (“**Aquinas**”). The Court having considered the Emergency Motion, arguments of counsel and the evidence presented at hearings conducted on November 17, 2017 and November 28, 2017; finding that the Emergency Motion and the hearings thereto were properly noticed to the relevant parties in interest; finding that, based on the oral findings and conclusions stated on the record at the hearing conducted on November 28, 2017, the Court holds jurisdiction to adjudicate the Emergency Motion and enter a final order thereto and there exist sufficient grounds to grant the Emergency Motion, in part, and deny the Emergency Motion, in part; it is therefore

ORDERED, ADJUDGED AND DECREED that:

1. The Emergency Motion is Granted, in part, and Denied, in part, as provided in this Order;

2. The Trustee shall pay Aquinas \$4,000.00 on or before December 31, 2017, by check delivered to Aquinas' counsel at FisherBroyles, LLP (c/o Joseph Acosta), Highland Park Place, 4514 Cole Avenue, Suite 600, Dallas, Texas 75205;

3. Aquinas is hereby granted an administrative priority claim, pursuant to section 503(b)(1) of the Bankruptcy Code, in the amount of \$16,000.00 against Fretz's bankruptcy estate (the "**Administrative Claim**"); Aquinas shall immediately apply the security deposit of Fretz, in the amount of \$5,000.00 (the "**Security Deposit**"), toward the satisfaction of the Administrative Claim and, once applied, Fretz's bankruptcy estate shall have no more interest in such funds;

4. Without any further order of the Court, Aquinas may remove and dispose of any and all of the personal property of Fretz or its bankruptcy estate (the "**Personal Property**") that is located on the premises at 2002 Rothwell, Houston, Texas 77020 (the "**Premises**");

5. The Trustee, Fretz and its bankruptcy estate shall immediately be deemed to have abandoned all interests in the Personal Property, pursuant to section 554 of the Bankruptcy Code; provided that Aquinas is required to apply any sale proceeds from the disposition of the Personal Property towards the reduction of its Administrative Claim;

6. Aquinas is not required to sell any of the Personal Property and may simply dispose of it as trash;

7. The Trustee shall immediately deliver to Aquinas any keys, locks or access codes relating to the Personal Property or the Premises in the Trustee's possession;

8. The Trustee is not required to remove any of the Personal Property located on the Premises;


9. Aquinas' request for an administrative priority claim for legal fees incurred in connection with the enforcement of its lease with Fretz and prosecution of the Emergency

Motion is hereby denied;

10. Any objections to the Emergency Motion not expressly addressed in this Order or any other relief requested by any party are hereby denied.

11. This Court retains jurisdiction to interpret the terms of this Order.

Signed this 7th day of December, 2017.



HONORABLE JEFF BOHM

U. S. Bankruptcy Judge

APPROVED AS TO FORM ONLY:

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